

II. REMARKS

Formal Matters

Claims 1-13 and 15-23 are pending after entry of the amendments set forth herein.

Claims 1, 5, 8-11, 13, and 17 are amended. The claim amendments are not narrowing, and are made solely in the interest of placing the claims into better form. The amendments may not be construed as acquiescence to any rejection of any claim. Support for the amendments to claims 1, 5, 8-11, 13, and 17 is found in the claims as originally filed, and throughout the specification. Accordingly, no new matter is added by these amendments. Entry of the amendments is respectfully requested.

Claim 14 has been canceled as being drawn to non-elected subject matter as a result of a restriction requirement (Group II, claim 14, drawn to various intermediates of 4, 5, 6 and 13). Applicants reserve the right to file one or more divisional applications to acquire rights to the restricted subject matter.

Applicants respectfully request reconsideration of the application in view of these amendments and the remarks made herein.

Rejection Under 35 USC § 112, second paragraph

Claims 1-22 are rejected under 35 USC § 112, second paragraph, as allegedly being indefinite for failing to point out and distinctly claim the subject matter which Applicants regard as the invention.

Applicants respectfully traverse.

Examiner states that recitation of the phrase "of general" in claim 1 and its dependent claims implies more than what is being positively recited therein. Applicants respectfully submit that the phrase correctly refers to the general, or genus, structure defined in formula (1). As amended, claims 1, 13, and 17 delete this phrase to place the claims into better form. Accordingly, Examiner's rejection with respect to this phrase in claims 1, 13, and 17 is moot.

Examiner states that recitation of the term "especially" in claim 1 and its dependent claims is unclear. Applicants respectfully submit that the term clearly refers to the preceding structure(s). As amended, claims 1, 5, 8-11, and 17 delete this term to place the claims into better form. Accordingly, Examiner's rejection with respect to this term in claims 1, 5, 8-11, and 17 is moot.

Examiner states that recitation of the phrase "any of the foregoing morpholine, thiomorpholine, piperidine, piperazine and pyrrolidine rings being optionally substituted with C₁₋₄ alkyl . . ." in claim 1 and its dependent claims is unclear. Specifically, Examiner asserts that "piperidine and pyrrolidine are not positively recited in the recitation 'R³ and R⁴ together form a C₃₋₇ alkylene. . .' above it." Applicants respectfully submit that the subject phrase is not limited to R³ and R⁴, as demonstrated by the introductory phrase "any of the foregoing." Piperidine and pyrrolidine are positively recited prior to this phrase, for example, with respect to R¹. Accordingly, Applicants respectfully assert that Examiner's rejection with respect to this phrase in claims 1 and 8-11 is misplaced and must be withdrawn.

Applicants acknowledge with thanks Examiner's allowance of claim 23. Examiner further states that claims 1-13 and 15-22 will be allowed if amended to overcome the rejections under 35 USC § 112, second paragraph, discussed above. Applicants respectfully submit that such claims are in condition for allowance in view of the amendments and remarks above. Claim 14 has been canceled so that claims 1-13 and 15-23 may be passed to issue.

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III. CONCLUSION

For the reasons set forth above, Applicants respectfully submit that the present response overcomes all outstanding rejections. Applicants respectfully request allowance of all claims.

The Commissioner is hereby authorized to charge any additional fees under 37 CFR §1.17 which may be required, or credit any overpayment, to Account No. 50-1676 in the name of Syngenta Crop Protection, Inc.

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